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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,769	12/31/2001	Gene Gould	P 016417 272123	9179

7590 07/17/2003

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EXAMINER

BROWN, KHALED

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/039,769	GENE GOULD
	Examiner	Art Unit
	Khaled Brown	2877

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 31 December 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-64 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-64 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 31 December 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Sohma et al (US 4973159).

Re clm 23: Sohma et al discloses a double monochromator comprising (Fig 1): an entrance aperture (15), a first optical grating (11a), a first selection aperture (3), a second optical grating (11b), and a second selection aperture (19).

Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Ohnishi et al (US 3886363).

Re clm 31: Ohnishi et al discloses a light transfer module comprising: an excitation mirror (18); and an emission mirror (20)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22, 24-30, 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohnishi et al (US 3886363) in view of Sohma et al (US 4973159).

Re clms 1-22, 24-30, 32-36: Ohnishi et al discloses a fluorescence spectrophotometer system comprising: a light source (1), a first double monochromator (3), a light transfer module comprising: a first reflection surface (18), and a second reflection surface (20), a second double monochromator (30) and a photodetector (36) and analyzer (Col 1 line 11). However, ohnishi et al does not disclose that the double monochromator comprises two or more gratings. Sohma et al teaches that a double monochromator comprises two or more gratings (11a, 11b) because it allows continuous change of a desired wavelength. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate two or more gratings in the double monochromators of Ohnishi et al because it would allow continuous change of a desired wavelength as taught by Sohma et al.

Claims 37-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohnishi et al (US 3886363) in view of Sohma et al (US 4973159) as applied to claim 1 above, and further in view of Shikama et al (US 5662400).

Re clms 37-64: The combination system of Ohnishi et al and Sohma et al discloses the claimed invention as noted above. However the combination system of Ohnishi et al and Sohma et al does not disclose a light source comprising a spherical concave reflector system, the reflector being telecentric at both ends and fully corrected for third order aberrations. Shikama et al discloses a light source (Fig 36) comprising a spherical concave reflector system , the reflector being telecentric at both ends and fully corrected for third order aberrations (130) because it achieves high image brightness. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention

was made to incorporate the light source of Shikama et al into the combination system of Ohnishi et al and Sohma et al because it would achieve high image brightness.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tashiro et al 5946090, Tohyama et al 4352561 and Harrick 3715585.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 703-306-5738. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 703-308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

KB  
July 14, 2003



Frank Font  
Supervisory Patent Examiner  
Art Unit 2877